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202-307-2182 (v)
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Attorneys for the United States

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

UNITED STATES OF AMERICA,)	
)	Case No. 3:20-cv-00755
Plaintiff,)	
)	COMPLAINT TO REDUCE TAX
v.)	ASSESSMENTS TO
)	JUDGMENT
DAVID S. WAITE,)	
)	
Defendant.)	
_____)	

1. By this timely suit, the United States seeks to reduce federal tax liabilities assessed against David S. Waite to judgment.

Authorization for the Suit

2. Pursuant to 26 U.S.C. § 7401, this action is filed with the authorization, and at the request, of the Secretary of the Treasury of the United

States, acting through his delegate, the Associate Area Counsel of the Internal Revenue Service.

3. This action is filed at the direction of the Attorney General of the United States or his delegate. 26 U.S.C. § 7401.

Jurisdiction and Venue

4. This Court has jurisdiction over this matter under 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402(a).

5. Venue is proper in the District of Oregon under 28 U.S.C. §§ 1391(b) and 1396 because Mr. Waite resides in the District.

Defendant David S. Waite's Federal Tax Liabilities

6. Mr. Waite is an individual residing in Yamhill County, Oregon, who has unpaid federal tax liabilities as reflected on Notice of Federal Tax Liens which were recorded in Yamhill and Washington County, Oregon.

7. Mr. Waite is a self-employed real estate agent in Oregon operating under David Waite Real Estate PC.

8. Since 1999, Mr. Waite has repeatedly failed to make required estimated tax payments required under 26 U.S.C. § 6654.

9. Mr. Waite has not made any tax payments since 2017.

10. The liabilities at issue in this case were assessed based on tax returns that Mr. Waite voluntarily filed.

11. Despite filing tax returns, Mr. Waite has failed to pay the underlying taxes, penalties, and interest.

12. The amounts due, with interest and statutory additions through May 11, 2020, are listed in the table below:

Period	Assessment Date	Assessment Amount	Unpaid balance as of May 11, 2020
2008	5/3/2010 “ “ “ “ 8/23/2010 10/17/2011 9/3/2012 9/2/2019	Tax Assessed: ¹ \$8,840 Est. Tax Penalty: \$265.00 ² Late Filing Penalty: \$1,854.00 ³ Failure to Pay Penalty: \$535.60 ⁴ Interest: \$394.28 ⁵ Collection Fee: \$20.00 Failure to Pay Penalty: \$1,400.80 Failure to Pay Penalty: \$123.60 Interest: \$5,168.17	\$18,632.76
2009	11/22/2010 “ “ “ 3/7/2011 10/15/2012 9/2/2019	Tax Assessed: \$9,751.00 Est. Tax Penalty: \$214.00 Late Filing Penalty: \$358.04 Failure to Pay Penalty: \$219.42 Collection Fee: \$20.00 Failure to Pay Penalty: \$1,879.71 Interest: \$4,277.47	\$16,477.94
2013	5/26/2014 “ “ “ 6/24/2019 7/1/2019 9/2/2019 “	Tax Assessed: \$45,893.00 Est. Tax Penalty: \$204.45 Failure to Pay Penalty: \$169.12 Interest: \$45.04 Collection Fee: \$40.00 Collection Fee: \$40.00 Interest: \$2,439.58 Failure to Pay Penalty: \$2,383.93	\$15,790.11
2015	6/6/2016 “ “ “ 9/2/2019 “	Tax Assessed: \$47,383.00 Est. Tax Penalty: \$489.00 Failure to Pay Penalty: \$138.83 Interest: \$79.12 Interest: \$2,340.45 Failure to Pay Penalty: \$3,331.91	\$20,972.90

¹ This amount includes the amount assessed after applicable credits or tax payments.

² See 26 U.S.C. § 6654

³ See 26 U.S.C. § 6651(a)(1).

⁴ See 26 U.S.C. § 6651(a)(2), (3).

⁵ See 26 U.S.C. § 6601

2016	11/20/2017 “ “ “ 9/2/2019 “	Tax Assessed: \$70,028.00 Est. Tax Penalty: \$1,245.00 Failure to Pay Penalty: \$2,561.12 Interest: \$1,555.17 Interest: \$6,575.81 Failure to Pay Penalty: \$13,125.74	\$92,535.37
2017	11/19/2018 “ “ “ 9/2/2019 “	Tax Assessed: \$36,064.00 Est. Tax Penalty: \$863.00 Failure to Pay Penalty: \$1,442.56 Interest: \$1,093.15 Interest: \$1,786.28 Failure to Pay Penalty: \$3,065.44	\$48,753.65
2018	11/18/2019 “ “ “ 3/2/2020	Tax Assessed: \$19,521.00 Est. Tax Penalty: \$633.00 Failure to Pay Penalty: \$780.84 Interest: \$630.86 Collection Fee: \$60.00	\$23,026.83
TOTAL: \$236,189.56			

13. Typically, the IRS has ten years from assessment to collect on a tax liability. 26 U.S.C. § 6502(a)(1). This limitations period was tolled by at least 30 days for the 2008, 2009, and 2013 tax years when Mr. Waite entered into an installment agreement for those years that was later terminated. 26 C.F.R. § 301.6331-4(c)(1).

14. Pursuant to 26 U.S.C. § 6321, the above assessments created liens in favor of the United States.

15. In order to comply with the requirements of 26 U.S.C. § 6323(f), the IRS recorded notices of federal tax lien for the liabilities described in Paragraph 12 in Yamhill County, Washington County, and with the Oregon Secretary of State.

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**Count 1: Reduce to Judgment Unpaid Federal Income Tax Assessments
Made Against David S. Waite**

16. The United States incorporates by reference the allegations made in Paragraphs 1 through 15, above.

17. Despite proper notice and demand for payments to the tax liabilities described in Paragraph 12, Mr. Waite has neglected, failed, or refused to make full payment of the assessed amounts to the United States, and there remains due and owing on said assessments the sum of \$236,189.56 as calculated through May 11, 2020. Accordingly, the United States is entitled to judgment in its favor for the full amount owed.

WHEREFORE, the United States respectfully requests the following relief:

- A. Judgment in favor of the United States and against Mr. Waite for his unpaid federal income tax liabilities for the 2008, 2009, 2013, 2015, 2016, 2017, and 2018 tax years, in the total amount of \$236,189.56, as of May 11, 2020, plus any additional interest or statutory additions as provided by law and less any payments or credits;
- B. Judgment recognizing that by virtue of the assessments described in Paragraph 12, the United States has valid and subsisting federal tax liens on all property and rights to property belonging to Mr. Waite, whether real or personal, wherever located, and whether presently held or hereinafter acquired; and

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C. That the United States shall be granted its costs and any other and further relief as is just and proper.

Respectfully submitted on May 8, 2020

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney
General

/s/ Boris Bourget
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff _____

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Boris Bourget, U.S. Department of Justice, P.O. Box 683, Washington, D.C. 20044, (202) 307-2182

DEFENDANTS

David S. Waite

County of Residence of First Listed Defendant Yamhill

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input checked="" type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
26 U.S.C. 7402

Brief description of cause:

Suit to reduce federal income tax assessments to judgment

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.DEMAND \$
236,189.56

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

05/08/2020

SIGNATURE OF ATTORNEY OF RECORD

/s/ Boris Bourget

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____